

REMARKS

1. Status of the Claims

As a result of the above amendments, claims 21-26 and 29-30 remain pending. Claims 21, 22, and 24 have been amended. No new matter has been added. Entry of the above amendments and reconsideration of this application is requested.

2. Means-Plus-Function Language

Regarding Claim 29, the Examiner indicated the Applicants' alleged need to "explicitly state, with reference to the terms and phrases of the claim element, what structure, materials, and acts perform the function recited in the claim element." The Applicants respectfully submit that the Specification supports Claim 29. Most notably, "[t]he configuration of each of the respective straddling members is such that they are spaced apart a distance that is slightly greater than the distance between the medial and lateral angles of the eye. As such, upon application, one of the soft tissue of the eye and the straddling members must be flexed (i.e. manipulated) to achieve the desired registered positioning of the straddling members relative to the eye. Once positioned, the soft tissue is generally biased against the straddling members such that the two are retained in substantial abutment. This cooperation and respective dimensioning of components forms the biasing means 73." See Specification, page 10, lines 5-11.

3. Claim Rejections Under 35 U.S.C. §102

Claims 21, 24-26, and 29 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. Re. 28,873, reissued to Morgan ("Morgan '873"); Claims 21-26 and 29 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent

No. 4,512,040, issued to McClure (“McClure ‘040”); and Claims 21 and 30 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,101,411, issued to Newsome (“Newsome ‘411”). Applicant respectfully traverses the Examiner’s rejection.

Notwithstanding the above traversal, Applicants have amended Claim 21 so as to better define the invention. Claims 22 and 24 have also been amended to conform to the language of Claim 21, and to eliminate any potential formal issues. As amended, Claim 21 is neither disclosed nor suggested by any of the cited references.

The present invention is directed to an ocular apparatus having a housing member configured to be at least partially placed beneath one of the upper and lower eyelids and directly adjacent an eye of a patient wherein a medicament or other fluid can be delivered to the patient. More specifically, the claims of the present invention have been amended to include, *inter alia*, a handle member being operably connected to the housing member. The housing member in combination with the handle member cooperate with at least one corner of the patient’s eye to maintain registered placement of the ocular apparatus.

a. Morgan ‘873

In contrast to Applicants’ claimed invention, Morgan ‘873 discloses a molded shield with an attached flexible tube. The molded shield “floats” atop the sclera wherein the flexible tube delivers a solution to the eyeball. (Morgan ‘873, Abstract)

As such, Morgan ‘873 fails to disclose a handle member being operably connected to a housing member—the handle member facilitating placement of the ocular apparatus for treatment of the eye. Morgan ‘873 further fails to disclose the combination of the housing member and the handle member in cooperation with at least one corner of the eye of the patient to maintain registered placement of the ocular apparatus.

Because Morgan '873 fails to disclose each and every element of the Applicants' claimed invention, Applicants respectfully request that the rejections under 35 U.S.C. 102(b) of independent claim 21, and all claims depending directly or indirectly thereon, be withdrawn.

b. McClure '040

McClure '040 discloses a bifocal intraocular lens for surgical implantation within the human eye. (McClure '040, column 3, lines 35-37) The intraocular lens is fastened to the iris by an attachment means 28, 30, 54, 56, e.g., J-loop or J-hook. (McClure '040, column 3, lines 20-49) The intraocular lens consists of an inner and outer transparent wall defining a centrally located refractive chamber containing an inescapable liquid having a predetermined refractive index. The refractive chamber is responsive to the line of sight wherein the chamber and the liquid cooperate to provide a bifocal effect.

Thus, McClure '040 fails to disclose a handle member being operably connected to a housing member and facilitating placement of the ocular apparatus for treatment of the eye. McClure '040 further fails to disclose the combination of the housing member and the handle member in cooperation with the corner of the patient's eye to maintain registered placement of the ocular apparatus.

Because McClure '040 fails to disclose each and every element of the Applicants' claimed invention, Applicants respectfully request that the rejections under 35 U.S.C. 102(b) of independent claim 21, and all claims depending directly or indirectly thereon, be withdrawn.

c. Newsome '411

Newsome '411 discloses a dilation enhancer including a contact lens with a conductive outer shell for contacting a patient's eye to assist in delivering dilation drops or other medicaments. A power source can be utilized with the dilation enhancer to facilitate delivery of

the medicaments via electrophoresis. (Newsome '411, Abstract)

Consequently, Newsome '411 fails to disclose a handle member being operably connected to a housing member and facilitating placement of the ocular apparatus for treatment of the eye. Newsome '411 further fails to disclose the combination of the housing member and the handle member in cooperation with the corner of the patient's eye to maintain registered placement of the ocular apparatus.

Because Newsome '411 fails to disclose each and every element of the Applicants' claimed invention, Applicants respectfully request that the rejections under 35 U.S.C. 102(e) of independent claim 21, and all claims depending directly or indirectly thereon, be withdrawn.



CONCLUSION

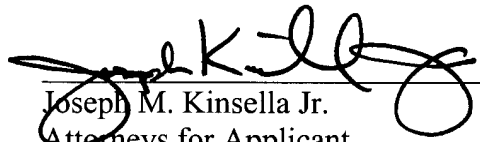
In view of the above amendments and remarks, Applicants respectfully request that all pending claims be passed to issue.

Should anything further be required, a telephone call to the undersigned, at (312) 226-1818, is respectfully invited.

Respectfully submitted,
FACTOR & LAKE, LTD.

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 8, 2004.

Joseph M. Kinsella Jr.

